



UNIVERSITY OF IBADAN JOURNAL OF PUBLIC AND INTERNATIONAL LAW

VOL. 8

ISSN 1595-7047

2018

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UNIVERSITY OF IBADAN

**JOURNAL OF PUBLIC AND INTERNATIONAL LAW (UIJPIL)
PUBLISHED BY THE DEPARTMENT OF JURISPRUDENCE
AND INTERNATIONAL LAW**

UIJPIL, Vol. 8, 2018

ISSN 1595-7047

©Department of Jurisprudence and International Law
Faculty of Law, University of Ibadan, Ibadan, Nigeria.

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Domestic Violence as a Breach of Fundamental Human Rights in Nigeria

Ibijo P. Byron*

Abstract

In Nigeria, domestic violence is a problem that is not new in many parts of Africa. However, there is a deep cultural belief that it is socially acceptable to hit a woman to discipline a spouse regardless of the fact that there are laid down provisions in the law. It is widespread and it is seen as an act of intimidation, physical, verbal or emotional abuse that has become an epidemic and it occurs in all sectors of the society. When women are faced with this problem, most women grieve in pain and silence because there are no systems of law that can adequately protect their rights. In Nigeria, there is a federal law, Violence against Persons Prohibition Act (VAPP), 2015 which provides for violence against women but the law can only be used in FCT, Abuja but this law is not all encompassing. In addition, even though some states have enacted Domestic Violence legislations, it is not enough as it only takes care of four states. The paper will therefore discuss the incidents of domestic violence, its causes, the international laws of which Nigeria is a member and the way forward in alleviating the plight of women.

1. Introduction

Domestic violence is a global issue which affects women all over the world and has been in existence for centuries. It is an issue that affects women and men but it is prevalent mostly amongst women despite

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national laws and international instruments which have been laid down to curb this atrocity. Domestic violence is a fundamental human rights violation of the rights of women in Nigeria and it is a silent weapon of chaos and destruction in the home. Domestic violence in the Nigerian society is often treated as a private matter in which a third party does not have the right of interference. This has led to the high number of women who have been beaten or even killed by their spouses all in the name of keeping the matter private and away from prying eyes.

Several reasons have been proffered for the occurrence of domestic violence and some of the reasons are culture and gender-based issues. An important issue which affects women is that the majority of women are unaware of their fundamental human rights. A problem that most women face is not only on their fundamental human rights but that it is an epidemic which is usually overlooked, excused or denied especially where the victim reports spousal abuse to law enforcement agencies. To alleviate the plight of women who have been abused, there are international instruments which set out principles on the protection of women globally. Nigeria is a signatory to some of these international instruments for the protection of women. This paper will examine how or whether Nigeria has acceded to any of the international instruments or whether there are any national laws on the protection of women. Furthermore, the probable causes of domestic violence and the fundamental human rights violence will also be discussed.

1.2 Domestic Violence

The definition of domestic violence is not conclusive as it varies from person to person and it can be defined either narrowly or broadly.¹ Domestic violence has however been described as a pattern of assaultive and coercive behaviours including physical, sexual and psychological attacks, as well as economic coercion used by adults (in

¹ Abbi et.al., 2010. Violence against Women in Ethiopia. *Gender, Place and Culture*, 17:4, 437-452

this case) against their current or former intimate partners.² The United Nations Declaration on the Elimination of Violence against Women defines violence against women as “any act of gender-based violence which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”³ It can also be defined as all acts perpetrated against women which cause or could cause physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life, in peace time and during situations of armed conflicts or of war.⁴ It can also be the wilful intimidation, physical assault, battery, sexual assault and/or other abusive behaviour as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, psychological and emotional abuse. It is pertinent to note that the frequency of domestic violence can vary dramatically; however, the overall component of domestic violence is one partner’s consistent efforts to maintain power and control over the other party.⁵

Domestic violence can be seen as being perpetuated against other members of family within a household usually spouses or any other violent act committed by one member of a household against another. It also covers the infliction of physical injury or the creation of

² Behind Closed Doors: The Impact of Domestic Violence on Children-UNICEF. Retrieved from [www.unicef.org>media>files>Behind...](http://www.unicef.org/media/files/Behind...) on April 20, 2016

³ Article 1, United Nations Declaration on the Elimination of Violence against women. (UN, DEVAW, 1993). See further Okereke, G.O. 2006. Violence against Women in Africa *AJCJS: African Journal of Criminology & Justice Studies, Volume 2, No.1*. ISSN 15543897

⁴ Article 1.b. paragraph 8, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, otherwise known as the Maputo Protocol

⁵ Behind Closed Doors: The Impact of Domestic violence on Children-UNICEF. Retrieved from [www.unicef.org>media>files>Behind](http://www.unicef.org/media/files/Behind) on April 20, 2016

reasonable fear that physical injury or harm will be inflicted by a parent or a member or former member of a child's household against a child or against another member of the household.⁶ It has many forms, which includes physical aggression or assault and this involves hitting, kicking or threats of sexual abuse, emotional abuse, controlling or domineering, intimidation; and generally abuse of all forms.⁷

Domestic violence is any abusive treatment of one family member by another thereby violating the law of basic human rights. It is the intentional and persistent abuse of anyone in a way that causes pain, distress or injury. It includes battering of intimate partners and others, sexual abuse of children, marital rape and traditional practices that are harmful to women.⁸ It occurs globally and families from all social, racial economic, educational and religious backgrounds experience violence in different ways.⁹ The degree of violence against women varies from community to community; and society to society and they have been preponderantly at the receiving end in ninety-five percent (95%) of known cases.¹⁰

1.3 Violence

Violence can be defined as any act or attempted act which causes or may cause any person physical, sexual, psychological, verbal,

⁶ Garner, B. 2009. Black's Law Dictionary. 9th Edition

⁷ Siemienuk, R.A.; Krentz, H.B; Gish J.A. & Gill, M.J. 2010. Domestic violence screening: Prevalence and outcomes in a Canadian HIV population. *AIDS Patient Care and STDs*

⁸ Aihie, O. N. 2007. Prevalence of Domestic Violence in Nigeria: Implications for Counselling. Retrieved from www.ajol.info/ejc/article/download on April 20, 2016

⁹ Dahlberg, L. L. and Krug, E.G. 2002. Violence – A global public health problem. In King E, Dahlberg, Meray J. A and A. B Zwi, Lozano R (eds.) World Report on violence and health. Geneva. Switzerland: WHO, 1-56.

¹⁰ Bazza. 2010. "Domestic Violence and Women's Rights in Nigeria." *Societies without Borders* 4 (2): 175-192. Retrieved from <http://scholarlycommons.law.case.edu/swb/vol4/iss2/6> on April 27, 2016

emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations.¹¹ The paper will therefore discuss domestic violence as it relates to Nigeria. The resultant effects of domestic violence will also be critically assessed as it affects the Nigerian woman.

1.4 Domestic Violence as a global issue

Domestic violence is a global issue which transcends national, cultural, racial and class boundaries and it is a menace that is deeply entrenched in the society and has led to the sudden death of many women across the globe.¹² Even though victims of domestic violence encounter institutional, structural and cultural barriers that restrain them from leaving spousal violence, they are faced with the dilemma of acute fear when they do leave.¹³ Domestic violence violates the inherent dignity and worth of all members of the human family, the inalienable right to freedom from fear and want, and the equal rights of men and women.¹⁴ This violence against women has been part of the fabric of many societies and cultures worldwide but it is majorly a pattern of behavior which involves violence or other abuse by one person against another in a domestic setting, such as in marriage or cohabitation.¹⁵ In Nigeria, domestic violence often goes unnoticed and hence, it has become commonplace.¹⁶ While it can be argued that it is more prevalent in some parts of Nigeria than others, there has been

¹¹ Bar Alpha 2015. An X-ray of the Violence against Persons (Prohibition) Act 2015. Retrieved from <https://baralpha.com/2015/08/23/an-xray-of-the-violence-against-persons-prohibition...> On July 14, 2016

¹² Abayomi, A.A. 2013. Domestic Violence and Death: Women as Endangered Gender in Nigeria. *American Journal of Sociological Research*, Vol.3, No.3 at pp.53-60

¹³ Berns, N. 1999. My Problem and How I Solved It: Domestic Violence in Women's Magazines. *The Sociological Quarterly*, 40:1, 85-108

¹⁴ Preamble to the Universal Declaration of Human Rights, which was signed on 10 December, 1948, G.A. Res. 217A (III) U.N. Doc. A/810, at 71

¹⁵ Musawa, H. 2016. surging Domestic Violence Rate against Women in Nigeria. Retrieved from thenationonline.net/surging-domestic... on July 15, 2016

¹⁶ Ibid.

no data to support the argument. The cause of violence against women can be attributed to the fact that women are deemed second-class citizens relative to men. The notion of submission to male authority is seen as permission for men to subdue women. This may be caused by the deep cultural background and the norms that seem to have permeated practically all ethnic groups in Nigeria. It has also been noticed that prior to the Violence against Persons (Prohibition) Act, there were no federal laws that protected women against domestic violence.¹⁷ There are however conflicting issues in Nigeria as some provisions seem to encourage wife battery and spousal abuse. For instance, the Penal Code states thus,

Nothing is an offence which does not amount to infliction of grievous hurt upon any person which is done...by a husband for the purpose of correcting his wife, such husband and wife being subject to any native law and custom under which such correction is lawful.¹⁸

On the other hand, there is no remedy for incidences of domestic violence under customary law. Where the situation of violence in the home occurs, the wife, that is, the victim, may decide to return to her parents when it becomes intolerable to stay with her husband for the fear of losing her life.¹⁹

Notwithstanding the above provision, and in order to alleviate the plight of women in a domestic violence situation, there are in existence state statutory laws which are only for specific states such as Cross River, Ebonyi State, Lagos State and Ekiti State.²⁰ However, prior to the intervention of states, victims of domestic violence were reluctant to use the justice system as it was not considered victim

¹⁷ Violence against Persons Prohibition Act 2015 which was signed into law by President Goodluck Jonathan

¹⁸ Section 55(1) (d) Penal Code, Cap. 89, Laws of Northern States with Northern States Federal Provision Act, Cap 345

¹⁹ Nwogugu, E.I. 2014. Family Law in Nigeria. Third Edition. HEBN Publishers Plc., at p. 112

²⁰ Ibid. at p. 112-113

friendly. Thereby, judges openly blame the victims for the violations of their rights.²¹ As a result of this, victims are often unwilling to report occurrences of domestic violence and neither are they enthusiastic of taking the action in any civil court.²²

Domestic violence is a violation of women's rights and governments have the obligation to protect all its citizens.²³ Such violence as a human rights violation manifests itself in a number of ways as it affects the woman's right to physical integrity, to liberty, and all too often, to personal right to life itself.²⁴ It is one of the most insidious of human rights violation that denies women of their security, equality, dignity, self-worth and right to enjoy fundamental human right freedom. Violence against women is present in most countries in the world, cutting across boundaries of culture, class, education, income, ethnicity and age; that is, anybody can become a victim of domestic violence. Suffice to state that women and children are the primary victims of domestic violence. However, when states fail to take the basic steps needed to protect women from such violence or allows these crimes to be committed with impunity, states are failing in their obligation to protect women from torture.²⁵

2 Causes of Domestic Violence

Domestic violence contravenes the fundamental rights provisions contained in the constitution: for instance, the right to life and all the

²¹ Eze-Anaba, I. 2006. Domestic Violence and Legal Reform in Nigeria: Prospects and Challenges. Retrieved from [law.bepress.com>...>EPS>1507](http://law.bepress.com/>...>EPS>1507) on April 20, 2016

²² Nwogugu, E.I., *ibid.* at p. 111

²³ Human Rights and Domestic Violence Fact Sheets/Human Rights Law. Retrieved from hrlc.org.au>human-rights-and-domestic... on July 15, 2016

²⁴ Amnesty International. Violence against Women. Retrieved from www.amnestyusa.org/our-work/i... on July 15, 2016

²⁵ *Ibid.*

basic civil and political freedoms including freedom of association, assembly, expression and worship and freedom from discrimination.²⁶

In Nigeria, women and girls are subjected to multiple physical forms of violence in the homes. However, the most common form of violence is wife battery ranging from slapping, kicking, verbal abuse, denial of financial resources, rape, and death.²⁷ When a woman suffers violence due to failure to meet some socially accepted standard of behavior, such failure is usually an accepted excuse for the violence she suffers, especially within the family context.²⁸ The woman could suffer violence in several ways; for instance, she could suffer violence for refusing to have intimate relations with her spouse, being troublesome or quarrelsome or challenging the man's behavior especially where he takes a second wife or generally, any trivial matter, for instance, not preparing meals on time, etc. The list is not exhaustive as a woman can be battered other than the above mentioned.²⁹

Other causes of domestic violence could either be by religious and/or cultural beliefs. In relation to customary practices across the borders of Nigeria, the general belief is that a man is the head of the family and has the greatest control and decision-making powers. In addition, in respect to marriage, the man is generally expected to pay bride

²⁶ Sections 33-43 of The Constitution of the Federal Republic of Nigeria, 1999.

²⁷ Project Alert on Violence against Women, No Safe Haven: An Annual Report of Attacks on Women in Nigeria. Retrieved from <http://www.projectalertnig.org/nosafehaven2003-2004.pdf> on April 20, 2016. See further, Oladeji, D. 2013. Personal, situational and Socio-cultural Factors as Correlates of Intimate Partner Abuse in Nigeria, *Advances in Sexual Medicines*. Retrieved from <http://dx.doi.org/10.4236/asm.2013.34014> on April 22, 2016; See generally, George, T.A. (2006-20014) *Lethal Violence against Women in Nigeria*. Retrieved from <http://www.ifra-nigeria.org/IMG/pdf/lethal-violence-against-women-nigeria.pdf> on April 22, 2016

²⁸ Nigeria: Unheard Voices, *ibid*.

²⁹ Effah, J., et.al. 1995. Unequal Rights: Discriminatory Laws and Practices against Women in Nigeria 54-55.

price and the general notion is that once the bride price has been paid by the man, he is the owner of the wife and can do as he pleases. Therefore, the notion of subjugation of women is so entrenched that in Nigerian societies, and its culture seems to be accepted and thought as a way of life.³⁰ In furtherance, when an abused victim is courageous enough to report incidents of domestic violence to law enforcement agencies, it is trivialized and characterized as a private matter. It is pertinent to note that the notion of customary practices is not prevalent only with the uneducated or the illiterate. Also among the educated elites, domestic violence is accepted as a way of life and efforts to combat it are considered western and foreign.³¹ In other words, it involves women of all ethnic and religious groups and all socio-economic groups both in the rural and urban areas. In addition, most religions profess that women are “home makers” at all cost even in the wake of violence against them. Cases of domestic violence are specifically rampant because of the encouragement to respect tradition even when it is harmful or barbaric.³² An important point which should not be side-lined is the fact that domestic violence is a vicious cycle of extreme harm which has life-long traumatic experience especially for the children. What this simply means is the children who observe their father beating up the mother will likely grow up to believe that men are supposed to beat up their wives.³³ In essence, there are also different types of domestic violence that occur in the home. They are:

³⁰ Akande, J. 1993. *Women and the Law*, in *Women in Law* (Akintunde O. Obilade ed.); Ritz, K.L. 2001. *Soft Enforcement: Inadequacies of Optional Protocol as a Remedy for the Convention on the Elimination of All Forms of Discrimination against Women*, 25 SUFFOLK TRANSNAT'L L. REV. 191

³¹ Eze-Anaba, I. 2006. *Domestic Violence and Legal Reform in Nigeria: Prospects and Challenges*. Retrieved from [law.bepress.com>...>EPS>1507](http://law.bepress.com/...>EPS>1507) on April 20, 2016

³² George, T.A. 2006-2014. *A Report on the Lethal Violence against Women in Nigeria*. Retrieved from <http://www.ifra-nigeria.org/IMG/pdf/lethal-violence-against-women-nigeria.pdf> on April 22, 2016

³³ *Ibid.* at p. 10

1. Physical Abuse: this is the use of physical force in such a way that the woman victim is at the point of being injured. It includes beating, kicking, knocking, punching, etc.³⁴
2. Sexual abuse: this includes all forms of sexual assaults, harassment or exploitation³⁵
3. Neglect: this is the failure to provide for dependents or denying family members the basic necessities of life³⁶
4. Economic Abuse, Spiritual Abuse are other examples of domestic violence³⁷

Domestic violence is generally understood as a 'private' matter in which governments should not interfere and for which they are not accountable.³⁸ Presently, domestic violence is so entrenched in the society that even the victims condone such violations of their rights, some claiming it as a sign of love.³⁹ Therefore, it has been part of the fabric of many societies and cultures globally and it has become commonplace that it goes unnoticed; thereby, the failure to receive the level of concern it deserves in light of the devastating effects on children and the families.⁴⁰ The home has been idealized as a place of safety and security, a sanctuary from duty, responsibility and it has been stated that the 'family home' can be a cradle of violence which is

³⁴ It has been observed that 83% of a study reported physical abuse when it came to Physical abuse. Obi, S. N. and Ozumba, B.C. 2007. Factors associated with domestic violence in South-East Nigeria. *Journal of Obstetrics and Gynecology*. 27. (1) 75 – 78.

³⁵ Ibid

³⁶ Ibid

³⁷ Ibid

³⁸ Finesmith, B.K. 1983. "Police Response to Battered Women: A Critique and Proposals for Reform", *Seton Hall L. Rev.* 14 atp.73

³⁹ Eze-Anaba, I. 2006. Domestic Violence and Legal Reform in Nigeria: Prospects and Challenges. Retrieved from [law.bepress.com>...>EPS>1507](http://law.bepress.com/...>EPS>1507) on April 20, 2016

⁴⁰ Igbokwe, C.C., Ukwuma, M.C. and Onugwu, K.J. *Domestic Violence Against Women: Challenges to Health and Innovation* Retrieved from www.transcampus.org/.../Jorind%20Vol11%20No2%20Dec%20Chapter... On April 27, 2016

directed at the female members of the family.⁴¹ Firstly, it takes place in private with no witnesses or any member, (both of the nuclear and extended) families present. Secondly, the victim is often unwilling to neither report incidents of domestic violence nor take any action against the offending spouse.⁴² It is pertinent to note that culture and customary law has a role to play in the above issues which makes it difficult for the other members of the family to interfere with the offending spouses.

3. State Laws on Domestic Violence

In order to curb the incidences of domestic violence, some states in Nigeria have put in place appropriate legislations to protect women against violence. However, it is worthy of note that only four (4) states out of thirty-six (36) states have actually made the effort to curb the incessant flow of violence against women. They are the Cross River Domestic Violence and Maltreatment of Widows (Prohibition) Law;⁴³ the Ebonyi State Protection against Domestic Violence and Related Matters Law;⁴⁴ the Lagos State Protection against Domestic Violence Law;⁴⁵ and the Ekiti State Gender-Based Violence (Prohibition) Law.⁴⁶ Therefore, Cross River, Ebonyi, Lagos and Ekiti States have taken the step due to the unsatisfactory position of the law and the agitation of women relating to domestic violence. However, this is not enough because there are still thirty-two (32) states that are yet to put in place any regulatory framework for the protection of women against domestic violence.

⁴¹ Connors, J.F. 1989. Violence against Women in the Family (New York: United Nations) Retrieved from Thomas, D.Q. and Beasley, M.E. (1993) Domestic Violence as a Human Rights Issue. Retrieved from <http://www.jstor.org/stable/762650> on July 15, 2016

⁴² Nwogugu, E.I. (2014) Family Law in Nigeria. (Third Edition) HEBN Publishers Plc

⁴³ Cross River Domestic Violence and maltreatment of Widows (Prohibition) Law, No.10 of 2004

⁴⁴ Ebonyi State Protection Against Domestic Violence and Related Matters Law 2005, No.003 of 2005

⁴⁵ Lagos State Protection Against Domestic Violence Law 2007

⁴⁶ Ekiti State Gender-Based Violence (Prohibition) Law 2011

The Cross River State law criminalizes domestic violence by providing that, “any person who subjects any woman to any form of unwholesome treatment or domestic violence commits an offence” punishable by imprisonment or a fine. An important feature of this law is that the law relates to the domestic violence against women only which is necessary to combat the injurious effect of domestic violence. There is the need to contradict what Nwogugu⁴⁷ opined that the Cross River State law is discriminatory since it protects women alone. There is the need to have in place legislations to protect the Nigerian woman in all spheres of her life so that women have the same rights as the other gender. A similar approach of criminalizing domestic violence is in Ebonyi state. Under this law, domestic violence is committed between persons that have a marital or familial relationship. The difference between Cross River State law and the present law is that under the Ebonyi law, domestic violence is defined as any physical attack or abuse including verbal attack capable of causing emotional and psychological pain.⁴⁸

This law empowers any person who is the victim of domestic violence to apply to a Magistrate court for a protection order.⁴⁹ Furthermore, a police officer or a social worker who is at the scene of the violence or learns about the incident is obliged to assist the victim by taking reasonable force to rescue the victim and ensuring that the victim is adequately taken care of.⁵⁰ Lagos state presently is regarded as the most advanced in Nigeria in relation to the fight against domestic violence. The Lagos State Protection against Domestic Violence Law ensures that it criminalizes domestic violence in apt cases. It states

⁴⁷ Nwogugu, E.I. 2014. Family Law in Nigeria (Third Edition) HEBN Publishers Plc; at page 113

⁴⁸ Section 1 of the Ebonyi State Domestic Violence and Related Matters Law

⁴⁹ Section 4(2) of the Ebonyi State Domestic Violence and Related Matters

⁵⁰ The Law Enforcement Officer will make arrangements to ensure that the victim finds suitable accommodation; is attended to by a medical officer. After all the preliminary work has been done, the offender is arrested. See section 5 of the Ebonyi State Domestic Violence and Related Matters Law

that, "no person shall commit any act of domestic violence against any person".⁵¹ The Law goes further to define the constitution of domestic violence.⁵²

3.1. Regional and International Legal Instruments on Domestic Violence

Nigeria is a party to many international and regional conventions and has signed, ratified or acceded to the most important international and human rights instruments.

(a) Regional Instruments

(i) The African Charter on human and Peoples' Rights

The African Charter on Human and Peoples' Rights (the African Charter) has been domesticated by Nigeria and entered into force on October 21, 1986.⁵³ However, this Charter was inadequate in protecting the rights of women in Africa as it did not into consideration dire issues such as custom and marriage. Despite the fact that the Charter recognized women's rights as stated in its provisions, as mentioned above, it did not take cognizance of critical issues peculiar to some African countries.

(ii) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Nigeria is a signatory to the Protocol which came into force on November 26, 2005. It places an obligation on state parties to take measures to address not only violence against women but also other aspects of women's rights. Under the Protocol, there are key provisions which guarantee the enjoyment of women's rights

⁵¹ See Section 1, Lagos State Protection against Domestic Violence Law

⁵² This is under Section 18(1) of the Lagos State Protection against Domestic Violence. This includes physical abuse, sexual abuse, psychological abuse, ridicule or name calling, emotional abuse, etc

⁵³ Section 12 of the 1999 Constitution of Federal Republic of Nigeria provides that "no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly"

regardless of marital status in all spheres of life. The provision implies that national laws and constitutions that discriminate against married women are in conflict with the Protocol and violate its non-discrimination principles.⁵⁴ However, many of the conventions have not been tested in the Nigerian Courts of Law.

(b) International Legal Instruments

Nigeria as a member of the United Nations has signed and ratified several human rights instruments. There are general human rights instruments that specifically recognize the right to non-discrimination while there are other instruments which focus exactly on women. The general human rights instruments that specifically recognize the right to non-discrimination are the International Covenant on Civil and Political Rights (ICCPR),⁵⁵ International Covenant on Economic, Social and Cultural Rights (ICESCR),⁵⁶ and the Convention on the Rights of the Child (CRC).⁵⁷ The instruments that focuses on women precisely are the Convention on the Elimination of all Forms of Discrimination Against women (CEDAW),⁵⁸ Optional Protocol on the Elimination of all Forms of Discrimination against Women,⁵⁹ etc. The United Nations sponsored convention for the Elimination of Discrimination against Women (CEDAW) which was adopted by the UN General Assembly in 1979 is often called the “Bill of Human Rights for women”. It calls on governments that signed the treaty to remove all forms of discrimination against women to ensure women’s equal access to political and public life, education, health and also to

⁵⁴ For instance, in Section 26, 1999 Constitution of the Federal Republic of Nigeria states that Nigerian men are enabled to confer citizenship by registration to their foreign wives but does not extend the same rights to foreign men married to Nigerian women

⁵⁵ This Covenant was ratified on 29 July, 1993

⁵⁶ The ICESCR was ratified on 29 July, 1993

⁵⁷ The CRC was ratified in Nigeria on 19 April, 1991

⁵⁸ CEDAW was ratified on 23 April, 1984

⁵⁹ The Optional Protocol on the Elimination of all Forms of Discrimination Against Women was ratified on 22 November, 2004

protect their reproductive rights.⁶⁰ Nigeria signed the convention 1979 and ratified it in 1985.⁶¹

Nigeria signed and ratified CEDAW on June 13, 1985 without any reservations. It also ratified the Optional Protocol to CEDAW on November 22, 2004. CEDAW provides for the basis for ensuring equality between men and women. It urges state parties to condemn discrimination against women in all its forms and pursue without delay a policy of eliminating discrimination against women by embodying the principles of equality of men and women in the Constitutions.⁶² However, despite the statutory provisions of CEDAW, the Nigerian government is yet to domesticate CEDAW in line with the provisions of the Constitution.⁶³ The reasons for the ratification of the above international human rights instruments is to curb the incidences of domestic violence in Nigeria. It is however yet to be seen whether this has been implemented in national laws after thirty-four (34) years.

4. Current Initiative for Legal Reform in Nigeria

The Federal Government in its effort to curb domestic violence passed the Violence against Persons Prohibition (VAPP) Bill into Law,⁶⁴ which is a welcome breath of fresh air. It is an Act to eliminate violence in private and public life, prohibit all forms of violence and to provide maximum protection and effective remedies for victims and

⁶⁰ Bazza. 2010. "Domestic Violence and Women's Rights in Nigeria." *Societies without Borders* 4 (2): 175-192. Available at: <http://scholarlycommons.law.case.edu/swb/vol4/iss2/6> on April 27, 2016

⁶¹ Ibid.

⁶² Article 2, CEDAW

⁶³ This is in line with Section 12 which states that international treaties can only be enforced upon the enactment of a domestic law to that effect by the National Assembly

⁶⁴ President Goodluck Jonathan passes Violence Against Persons Prohibition Bill into Law. Retrieved from www.nsrp-nigeria.org/2015/05/2 on April 27, 2016. The Act was signed into law on May 25, 2015 after ten years in the legislative process

punishment of offenders in Nigeria.⁶⁵ VAPP, being a national law, its provisions extend overarching protection against violence throughout the country. It is considered a significant development because of the previously patchwork nature of law against violence, particularly gender-based violence.⁶⁶ For instance, the VAPP Act states that a person who batters his or her spouse commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.⁶⁷

5. Enforcing laws in Nigeria

Nigeria, in ensuring that its citizens have a right to life as enshrined in the Constitution of the Federal Republic of Nigeria has acceded to a number of international instruments and other national and regional laws. However, though the laws are in existence, there is the problem of enforceability which has made our laws to be stagnant. Various factors could be responsible for the problem of ineffective law enforcement in Nigeria. Some of the factors are: nepotism, ethnicity, corruption, etc. Other factors which could also be responsible for the non-enforceability of Nigerian laws is the role culture plays in the society. Culture guides the values of the society and shapes the perception of people which affects the interaction of people and their environment.⁶⁸ In addition, because culture is the way of life of a particular people in a community, the man in a patrilineal society (of which Nigeria is part of), is seen as the head of the family and what he says in the family sphere is “Law” and “Irreversible”. Hence, this has affected women to imbibe a silence code for fear of losing financial support from their spouses. Where the victim woman decides to report

⁶⁵ Onibokun, A. The Violence Against Persons Act 2015 (Part 1). Retrieved from www.legalnaija.com/2015/06/provisions-of-violence-against-persons.html on July 15, 2016

⁶⁶ CHELD (2015) Violence against Persons (Prohibition) Act. Retrieved from cheld.org/wp.../violence-against-Persons-Prohibition-Act-2015-A-CHELD-Brief.pdf on July 15, 2016

⁶⁷ Section 19(1) VAPP Act. See further Section 19 (2)- (4) for other provisions on spousal abuse

⁶⁸ Falola, T. 2008. The Power of African Cultures, University of Rochester at p.4

the issue to law enforcement agencies, the matter is trivialized and is considered a private matter, and the woman after reporting her spouse is made to face the music.⁶⁹

6. Recommendations

The Nigerian law does not encourage women as the laws though there, are not enforceable and thereby, women are not protected from violence. Nigerian women have been subjected to various forms of domestic violence throughout history. Domestic violence constitutes the torture of women which is an attack on their integrity and undermining their entire being. A lot still needs to be done despite the efforts and the change of attitude by the international and national communities but there still exists great disparities.⁷⁰

Some of the existing laws, for instance, the Criminal Code should be amended. A form of domestic violence is that of spousal rape but under the Criminal Code, the belief is that a man cannot be found guilty of raping his wife.⁷¹ There is need for awareness of the fundamental human rights of women in Nigeria. The fight for violence against women is to create or raise awareness of women's rights to law enforcement agencies and the judiciary and to continuously promote public awareness through the media in alleviating the woman victim.⁷² It is also important that women should be educated about their fundamental human rights.⁷³ This will not be easy but it is a war that must be fought. There is the need to organize forum centers for

⁶⁹ Amnesty International, Nigeria: Unheard Voices, ibid.

⁷⁰ Lourdes, C. A. and Torres, M. R. B. (1991) *Third world women and the politics of feminism*, Indiana University Press. See also, Sale, E. (2002), 'Women in the academy', Dakar: Codesria

⁷¹ Section 6, Criminal Code

⁷² Bazza (2010) "Domestic Violence and Women's Rights in Nigeria." *Societies Without Borders* 4 (2): 175-192. Retrieved from <http://scholarlycommons.law.case.edu/swb/vol4/iss2/6> on April 27, 2016

⁷³ A woman should know her fundamental human rights as enshrined in the 1999 Constitution of the Federal Republic of Nigeria. Section 4, Constitution of the Federal Republic of Nigeria, 1999.

women so that the legal system will alleviate their plight. Therefore, the welcome change is the Violence against Persons (Prohibition) Act which provides that anybody who causes physical injury will be guilty of an offence but this is not enough. However, for the Act to succeed and to be enforceable Nigeria needs a cultural shift and all the other Laws which encourage spousal battery should be reviewed. However, all states in Nigeria should adopt VAPP into their domestic laws because the VAPP Act as it is now is only recognized in the Federal Capital Territory, Abuja. There is the need for the government to collaborate with all Non-governmental organizations so that Victim Support Centers can be provided. Therefore, law enforcement agencies must be adequately trained in handling victims of Domestic Violence. In addition, all the regional, international laws must be consolidated and harmonized so that there can be a law that would adequately protect women.

It has always been said that imprisonment is not deterrence for offenders as it will make them hardened and they will come out of prisons, repeat offenders. A law, which is a relatively new area is that of community service. This is an area of law which is relatively new. Community service is a punitive sentence that requires a convicted person to perform unpaid work for the community in lieu of imprisonment.⁷⁴ Therefore, the offenders should be made to do community service which will serve as a permanent deterrence for future offences, thereby curbing the incidences of domestic violence.

In passing laws in Nigeria for the protection of women, the National Assembly should ensure gender-balance in passing and making laws. It is of essence to note that despite increased awareness of democracy and the need to sustain democratic rule in the country, women's rights issues are not properly articulated in terms of policies and have yet to

⁷⁴ Community service. Retrieved through [www.dictionary.com](http://www.dictionary.com/browse/community-service) on July 15, 2016

be given priority by the government.⁷⁵ Hence, there is the need for change in the orientation of stakeholders and policy makers.

7. Conclusion

There is no doubt that the high level of poverty and socio-economic challenges in the country have contributed in no small measure to the prevalence of domestic violence in Nigeria. There are societal challenges that create economic and financial hardship, unemployment which leads to frustration and emotional stress for many men and young people who after-all visit the anger on their counterparts through battery, sexual assault, etc. Also, the fear of financial insecurity has made most women embrace the culture of silence even at the face of great danger and death threats in situation of domestic violence.⁷⁶ There is insufficient data of domestic violence in Nigeria. This is due to the stigma and culture of secrecy and silence surrounding the issue.⁷⁷ The resultant effect is that these women wait until it is too late.

Domestic violence affects women in most communities in Nigeria and it involves women of all ethnic, religious groups and all socio-economic groups in the rural and urban areas. Nigeria for instance has experienced virtually one or more types of domestic violence and culture of polygamy involving spousal abuse is particularly common. All the religions practiced in Nigeria encourage women to endure the atrocities of men and keep their homes. Most of the religions profess that women are “homemakers” even in the wake of violence against them. Cases of domestic violence are rampant because most of the people are encouraged to respect tradition even when it is harmful or

⁷⁵ Eze-Anaba, I. 2006. Domestic Violence and Legal Reforms in Nigeria: Prospects and Challenges. Berkeley: Electronic Press

⁷⁶ Odumakin, J. 2013. VANGUARD News 2013. Women are forced to respect tradition at their detriment. Retrieved from www.vanguardngr.com/2013/06/women-are-forced-to-respect-tradition-at-their-detriment/ On April 27, 2016

⁷⁷ Halim, K. and Wisdom-Bassey, V. 2016. Abused, Battered, Abandoned: Horrible stories of Nigerian women who survived violent, murderous spouse. Retrieved from sunnewsonline.com/abused-battered-abandoned-horrible-stories-of-nigerian-women on July 15, 2016

barbaric which is injurious to the well-being of the person.⁷⁸ Gone are the days when it was said that illiterates were victims of domestic violence and were ignorant of their rights. Nowadays, educated women are also maltreated by their intimate partners. There is therefore a need for adequate awareness and campaign to enlighten women of what steps to take in seeking redress for the injustice done to them. In addition, women should be adequately protected under the Nigerian Legal System. Also, there is the need to ensure that the laws on the protection of women are effectively enforced so as to alleviate the plight of Nigerian women. There is need for a complete overhaul of the legal system to protect women's rights and make it victim friendly. All discriminatory laws and practices as well as rules of procedures should be abolished and new ones put in place.

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⁷⁸ Ibid.